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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,581	09/06/2000	Robert Filepp	IBM-FILEPP ET AL. 012	9843
	7590	01/21/2005	PCS	
PAUL C. SCIFO ATTORNEY AT LAW 10 LEE COURT FRANKLIN SQUARE, NY 11010			EXAMINER	
			DINH, DUNG C	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 01/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.

09/656,581

Examiner

Dung Dinh

Applicant(s)

FILEPP ET AL.

Art Unit

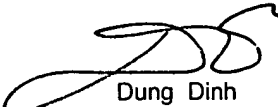
2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 1/30/04.
  - (a) ☒ A reply was received on 09 August 1994 (with a Certificate of Mailing or Transmission dated 04 August 2004), which is after the expiration of the period for reply (including a total extension of time of 3 month(s)) which expired on 7/30/04.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Correspondence mailed after Dec 1, 1996, and returned by the USPS as not mailed in compliance with USPS requirements concerning mail weighting sixteen ounces or more will not be entitle to any benefit under 37 CFR 1.8. See 1192 OG 43. Oct. 10, 1996 attached

  
Dung Dinh  
Primary Examiner  
Art Unit: 2152

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

(15) Treatment of Correspondence Deposited as First  
Class Mail Pursuant to 37 CFR 1.8 and Returned  
by the U.S. Postal Service

Due to heightened security concerns, effective September 1, 1996, the United States Postal Service (USPS) is requiring that all domestic first-class mail, bearing stamps and weighing sixteen ounces, or more, be presented to a retail clerk at a USPS office. All such mail that is not presented to a retail clerk at a USPS office (e.g., placed in a mailbox) will be returned by the USPS. The USPS has posted notice of this requirement on mailboxes. The "Express Mail" service of the USPS is not affected.

37 CFR 1.8 provides that certain correspondence will be considered timely filed by the Patent and Trademark Office (PTO) if, among other things, it is deposited with the USPS by the due date, and includes a certificate of mailing that sets forth the date the person signing the certificate reasonably expected the correspondence to be mailed. Correspondence must be deposited with the USPS as first class mail in compliance with any and all applicable requirements of the USPS to be considered "[d]eposited with the U.S. Postal service" within the meaning of 37 CFR 1.8(a)(1)(i)(A). Correspondence presented to the USPS in a manner that does not comply with the applicable requirements of the USPS is not "[d]eposited with the U.S. Postal service" within the meaning of 37 CFR 1.8(a)(1)(i)(A) and is not entitled to any benefit under 37 CFR 1.8.

To alleviate hardships caused by this change in USPS requirements, the PTO will treat correspondence returned by the USPS because of its size as "[d]eposited with the U.S. Postal service" within the meaning of 37 CFR 1.8(a)(1)(i)(A), so long as the correspondence was otherwise originally deposited with the USPS in compliance with 37 CFR 1.8(a)(1)(i) on or before December 1, 1996. Returned mail that is either resubmitted to the USPS for delivery, or hand-delivered to the PTO, will be stamped by the PTO with the actual date of receipt in the PTO. The correspondence will, however, be accorded the benefit of any certificate of mailing under 37 CFR 1.8.

Correspondence mailed after December 1, 1996, and returned by the USPS as not mailed in compliance with USPS requirements concerning mail weighing sixteen ounces or more will not be entitled to any benefit under 37 CFR 1.8.

Because this change in USPS requirements does not affect the "Express Mail" service of the USPS, it does not affect correspondence filed in compliance with 37 CFR 1.10. Persons filing correspondence in a manner other than by the procedures set forth in 37 CFR 1.8 or 1.10 do so at their own risk.

Questions concerning this notice should be directed to Senior Legal Advisor Robert W. Bahr at (703) 305-9285.

October 10, 1996

BRUCE A. LEHMAN  
Assistant Secretary of Commerce and  
Commissioner of Patents and Trademarks

[1192 OG 43]